

1 2. Plaintiff is not aware of the true names and capacities of the defendants sued herein
2 as DOES 1 through 20, inclusive, and therefore sues these defendants by such fictitious names.
3 Each of said fictitiously named defendants is responsible in some manner for the occurrences
4 herein alleged. Plaintiff will amend this Complaint to add the true names of the fictitiously named
5 defendants once they are discovered. Whenever reference is made in this Complaint to
6 “Defendants” such reference shall include Does 1 through 20, Allen Mayea, and Renee Launer.

7 3 Defendants maintain a mail box for their business, CCC, at a Mail Boxes Etc. store
8 located at 160 W. Foothill Parkway, #105-143, Corona, California 92882.

9 4. In addition, the Defendants conduct their business in a shop owned by Defendant
10 Allen Mayea, called The Glass Shop, which is located at 816 West Sixth Street, Corona,
11 California. Many of the acts described herein were carried out at this location, and Defendants
12 continue to carry out many of the acts described herein at this location.

13 5. At all times mentioned herein, each Defendant, including DOES 1 through 20,
14 inclusive, acted as the principal, agent, or representative of each of the other Defendants, and in
15 doing the acts herein alleged, each Defendant was acting within the course and scope of the
16 agency relationship with each of the other Defendants, and with the permission and ratification of
17 each of the other Defendants.

18 6. At all times mentioned herein, each Defendant knew or realized that the other
19 Defendants were engaging in or planned to engage in the violations of law alleged in this
20 Complaint. Knowing or realizing that other Defendants were engaging in such unlawful conduct,
21 each Defendant nevertheless facilitated the commission of those unlawful acts. Each Defendant
22 intended to and did encourage, facilitate, or assist in the commission of the unlawful acts, and
23 thereby aided and abetted the other Defendants in the unlawful conduct.

24 7. Defendants have engaged in a conspiracy, common enterprise, and common course
25 of conduct, the purpose of which is and was to engage in the violations of law alleged in this
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1 Complaint. The conspiracy, common enterprise, and common course of conduct continue to the
2 present.

3 8. Whenever reference is made in this Complaint to any act of Defendants, such
4 allegation shall mean that each Defendant acted individually and jointly with the other Defendants
5 named in that cause of action.

6 9. Although the Defendants lease a mail box and operate their business in Riverside
7 County, they call consumers in Los Angeles County, Riverside County, Orange County, and
8 possibly in other counties throughout California. Therefore, the violations of law alleged in this
9 Complaint occurred in Los Angeles County, Riverside County, Orange County and possibly in
10 other counties throughout California.

11 **DEFENDANTS' BUSINESS PRACTICES**

12 10. Defendants are engaged in an illegal telemarketing scheme designed to deceive
13 seniors and other California consumers into paying for services that Defendants are neither
14 authorized to provide nor able to deliver. In order to obtain illegal profits, Defendants are
15 exploiting a common and legitimate concern of California consumers -- the widespread concern
16 about the onslaught of harassing and unwanted telemarketing calls which often result in identity
17 theft and fraud. Defendants, doing business as CCC, have engaged in an unlawful scheme to
18 defraud consumers of money and credit card information by falsely representing that CCC has the
19 authority to and is able to register consumers for the "Do Not Call" list created by California
20 Business and Professions Code §§ 17590-17595 (the "Do-Not-Call Statute" or "Statute").

21 11. In late 2001, the Do-Not-Call Statute was enacted to protect the privacy of
22 California consumers by preventing unwanted and unsolicited telemarketing calls. Bus. & Prof.
23 Code § 17590(a) The Statute allows California residents to place their telephone numbers on a
24 list to be maintained by the Attorney General. Bus. & Prof. Code § 17591(a). The Attorney
25 General must then make the list, called a "Do Not Call" list (hereinafter referred to as the "Do Not
26 Call" list), available to telephone solicitors. Bus. & Prof. Code § 17591(c). Except in limited
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1 circumstances, telephone solicitors, defined in the Statute, are prohibited from calling any of the
2 telephone numbers included on the Do Not Call list. Bus. & Prof. Code §§ 17592 (a), (c). The
3 Do-Not-Call Statute goes into effect on January 1, 2003. Bus. & Prof. Code § 17591,
4 subd. (a).

5 12. Per emergency legislation recently passed by the Legislature, the Statute allows
6 the Attorney General to charge residential and wireless telephone subscribers, once every three
7 years, a fee not to exceed five dollars (\$5.00). Bus. & Prof. Code §§ 17591(b), (e); Assembly Bill
8 No. 3000, section 2. The Attorney General may contract with a private vendor to establish,
9 maintain, and administer the Do Not Call list. Bus. & Prof. Code § 17591(d).

10 13. If a covered solicitor calls a consumer in violation of Business & Professions Code
11 § 17592, the Attorney General, a district attorney, or a city attorney may bring a civil action under
12 that section in order to obtain a civil penalty of up to five hundred dollars (\$500.00) for the first
13 violation and up to one thousand dollars (\$1,000.00) for each subsequent violation. Bus. & Prof.
14 Code § 17593(a). In addition, a consumer who has received a telephone call in violation of
15 Business & Professions Code § 17592 may bring an action in Small Claims Court for injunctive
16 relief. Bus. & Prof. Code § 17593(b). If the consumer obtains an injunctive order prohibiting a
17 solicitor from calling him or her, and the solicitor violates that order 30 days or more after it is
18 served, the consumer may then file another action in small claims court for a civil penalty up to
19 \$1,000 (one thousand dollars). *Id.*

20 14. Defendants are exploiting this recent law to take money from seniors (ages 65 and
21 over) and other California consumers. Defendants advertise both on the Internet and use auto
22 dialer technology and pre-recorded messages to telephone consumers throughout California to
23 advertise the benefits of Business & Professions Code §§ 17590-17595 in a manner that tends to
24 mislead consumers into believing that CCC can, for a fee, add them to the Do Not Call list.
25 Defendants' automated message states or implies the following, among other, untrue and
26 misleading information:

1 a. CCC has the authority to and is able to register consumers on the Do Not
2 Call list;

3 b. CCC is affiliated with and/or working with the Attorney General, the State
4 of California, or some other governmental entity to maintain and/or create the Do Not Call list
5 and/or to register consumers on the list;

6 c. CCC is itself a governmental entity that is responsible for creating and/or
7 maintaining the Do Not Call list and/or registering consumers on the Do Not Call list;

8 d. Consumers must pay a fee of twelve dollars (\$12.00) to be included on the
9 Do Not Call list for a period of three years, and two dollars and fifty cents (\$2.50) for each
10 additional telephone line they want included on the Do Not Call list; and

11 e. If solicitors violate the Statute, they must pay the consumer five hundred
12 dollars (\$500.00) for the first violation and one thousand dollars (\$1,000.00) for the second
13 violation.

14 15. The automated message states that if a consumer is interested in registering for the
15 Do Not Call list, he or she should dial a specified digit and/or call Defendants back at 1-800-377-
16 0779.

17 16. Defendants also call consumers throughout California without the use of a pre-
18 recorded message to advertise the benefits of Business and Professions Code §§ 17590-17595 in
19 a manner that tends to mislead consumers into believing that CCC can, for a fee, add them to the
20 Do Not Call list. When Defendants call consumers without a pre-recorded message, and when
21 consumers dial zero or call 1-800-377-0779 after receiving a pre-recorded message from
22 Defendants, Defendants state or imply the following, among other, untrue and misleading

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25 information:
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1 a. The Attorney General, the State of California, or some other governmental
2 entity has contracted with CCC to create and/or maintain the Do Not Call list and/or to register
3 consumers on the list;

4 b. CCC is affiliated with and/or working with the Attorney General, the State
5 of California, or some other governmental entity to maintain and/or create the Do Not Call list
6 and/or to register consumers on the list;

7 c. CCC is itself a governmental entity that is responsible for creating and/or
8 maintaining the Do Not Call list and/or for registering consumers on the list;

9 d. CCC has the authority to and is creating and/or maintaining the Do Not
10 Call list and/or the Do Not Call list database;

11 e. CCC has the authority to and is able to register consumers for the Do Not
12 Call list;

13 f. CCC has the authority to enforce the Do Not Call Statute and obtain fines
14 for consumers who are on the Do Not Call list and whom solicitors call in violation of the Do Not
15 Call Statute;

16 g Consumers must pay a fee of twelve dollars (\$12.00) to be included on the
17 Do Not Call list for a period of three years, and two dollars and fifty cents (\$2.50) for each
18 additional telephone line they want included on the Do Not Call list; and

19 h If solicitors violate the Statute, they must pay the consumer five hundred
20 dollars (\$500.00) for the first violation and one thousand dollars (\$1,000.00) for the second
21 violation.

22 17. During the phone call, Defendants ask consumers to pay the twelve dollar (\$12.00)
23 fee plus fees for adding additional telephone lines to the Do Not Call list, by providing their credit
24 card information or by sending a personal check made out to CCC addressed to CCC at 160 W.
25 Foothill Parkway, Suite 105-143, Corona, California, 92882.

1 18. When consumers question the legitimacy of CCC, Defendants refer them to their
2 web site, www.cccdonthall.com. On the web site, Defendants also advertise the benefits of
3 Business & Professions Code §§ 17590-17595 in manner that tends to mislead consumers into
4 believing that CCC can, for a fee, add them to the Do Not Call list. On their web site, Defendants
5 state or imply the following, among other, untrue and misleading information:

6 a. CCC is affiliated with and/or working with the Attorney General, the State
7 of California, or some other governmental entity to maintain and/or create the Do Not Call list
8 and/or to register consumers on the list;

9 b. CCC is itself a governmental entity that is responsible for creating and/or
10 maintaining the Do Not Call list and/or for registering consumers on the list;

11 c. CCC has the authority to and is creating and/or maintaining the Do Not
12 Call list and/or the Do Not Call list database; and

13 d. Consumers must pay a fee of twelve dollars (\$12.00) to be included on the
14 list, plus a “reduced fee” for additional telephone lines to be registered on the Do Not Call list.

15 19. As of November 18, 2002, Defendants’ web site indicates that it had over to
16 250,000 (two hundred and fifty thousand) hits. On the web site, Defendants offer an “Automated
17 Do Not Call list registry Form” which requests that consumers submit their name, credit card
18 number, expiration date, address, e-mail, and telephone number.

19 20. In addition, on the web site, Defendants advertise a postal address at 160 West
20 Foothill Parkway, Corona, CA, 92882. This is the location of the Mail Boxes, Etc. store where
21 Defendants maintain a mail box and receive personal checks from consumers as payment for
22 registration on the Do Not Call list. On the web site, Defendants also advertise their toll free
23 telephone number, (800) 377-0779.

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21. Defendants' advertisements, both on the web site and made orally by telephone, are untrue or misleading in that:

- a. Neither the Defendants, nor CCC, have a contract with the Attorney General, the State of California, or any other governmental entity to create or maintain the Do Not Call list or to register consumers on the list;
- b. Neither the Defendants, nor CCC, are affiliated with or working with the Attorney General, the State of California, or some other governmental entity to maintain or create the Do Not Call list or to register consumers on the list;
- c. CCC is not a governmental entity;
- d. Neither the Defendants, nor CCC, have the authority to or are able to create or maintain the Do Not Call list or any Do Not Call list database;
- e. Neither the Defendants, nor CCC, have the authority to or are able to register consumers for the Do Not Call list;
- f. Neither the Defendants, nor CCC, have the authority to enforce the Do Not Call Statute or obtain fines on behalf of consumers who are on the Do Not Call list and whom solicitors call in violation of the Do Not Call Statute;
- g. Consumers do not have to pay a fee of twelve dollars (\$12.00) to be included on the Do Not Call list for a period of three years, nor do consumer have to pay a fee of two dollars and fifty cents (\$2.50) for each additional telephone line they want included on the Do Not Call list. Instead, the Statute allows the Attorney General to charge consumers who register on the Do Not Call list, once every three years, a fee not to exceed five dollars (\$5.00);
- h. Consumers are not entitled to a payment of five hundred dollars (\$500.00) for the first violation of the Statute by a solicitor; and
- i. For the second or subsequent violations, before consumers can collect the civil penalty of up to one thousand dollars (\$1,000.000) they must file an action in small claims court, obtain an injunction against the solicitor, and then if the solicitor calls again thirty (30) days

1 or more after the issuance of the injunction, file a new action against the solicitor for violating the
2 injunction.

3 **FIRST CAUSE OF ACTION**

4 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500**

5 **(UNTRUE OR MISLEADING REPRESENTATIONS)**

6 22. The People reallege and incorporate by reference paragraphs 1 through 21 of this
7 Complaint.

8 23. Defendants, including Does 1 through 20, have violated, and continue to violate,
9 Business and Professions Code § 17500 by making or causing untrue or misleading statements to
10 be made with the intent to induce members of the public to pay Defendants to register them for
11 the “Do Not Call” list created by Business and Professions Code §§ 17590-17595, and to provide
12 Defendants with their credit card information. These untrue or misleading statements include, but
13 are not limited to, the following:

14 a. The Attorney General, the State of California, or some other governmental
15 entity has contracted with CCC to create and/or maintain the Do Not Call list and/or to register
16 consumers on the list;

17 b. CCC is affiliated with and/or working with the Attorney General, the State
18 of California, or some other governmental entity to maintain and/or create the Do Not Call list
19 and/or to register consumers on the list;

20 c. CCC is itself a governmental entity that is responsible for creating and/or
21 maintaining the Do Not Call list and/or for registering consumers on the list;

22 d. CCC has the authority to and is creating and/or maintaining the Do Not
23 Call list and/or the Do Not Call list database;

24 e. CCC has the authority to and is able to register consumers for the Do Not
25 Call list;

1 f. CCC has the authority to enforce the Do Not Call Statute and obtain fines
2 for consumers who are on the Do Not Call list and whom solicitors call in violation of the Do Not
3 Call Statute;

4 g Consumers must pay a fee of twelve dollars (\$12.00) to be included on the
5 Do Not Call list for a period of three years, and two dollars and fifty cents (\$2.50) for each
6 additional telephone line they want included on the Do Not Call list; and

7 h If solicitors violate the Statute, they must pay the consumer five hundred
8 dollars (\$500.00) for the first violation and one thousand dollars (\$1,000.00) for the second
9 violation.

10 24. Defendants' representations are untrue and misleading because, among other
11 things:

12 a. Neither the Defendants, nor CCC, have a contract with the Attorney
13 General, the State of California, or any other governmental entity to create or maintain the Do Not
14 Call list or to register consumers on the list;

15 b. Neither the Defendants, nor CCC, are affiliated with or working with the
16 Attorney General, the State of California, or some other governmental entity to maintain or create
17 the Do Not Call list or to register consumers on the list;

18 c. CCC is not a governmental entity;

19 d. Neither the Defendants, nor CCC, have the authority to or are able to
20 create or maintain the Do Not Call list or any Do Not Call list database;

21 e. Neither the Defendants, nor CCC, have the authority to or are able to
22 register consumers for the Do Not Call list;

23 f. Neither the Defendants, nor CCC, have the authority to enforce the Do
24 Not Call Statute or obtain fines on behalf of consumers who are on the Do Not Call list and whom
25 solicitors call in violation of the Do Not Call Statute;

g. Consumers do not have to pay a fee of twelve dollars (\$12.00) to be included on the Do Not Call list for a period of three years, nor do consumer have to pay a fee of two dollars and fifty cents (\$2.50) for each additional telephone line they want included on the Do Not Call list. Instead, the Statute allows the Attorney General to charge consumers who register on the Do Not Call list, once every three years, a fee not to exceed five dollars (\$5.00);

h. Consumers are not entitled to a payment of five hundred dollars (\$500.00) for the first violation of the Statute by a solicitor; and

i. For the second or subsequent violations, before consumers can collect the civil penalty of up to one thousand dollars (\$1,000.000) they must file an action in small claims court, obtain an injunction against the solicitor, and then if the solicitor calls again thirty (30) days or more after the issuance of the injunction, file a new action against the solicitor for violating the injunction.

25. Defendants knew, or by the exercise of reasonable care should have known, that these statements were untrue or misleading at the time they were made.

SECOND CAUSE OF ACTION

VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200

(UNFAIR COMPETITION)

26. The People reallege and incorporate by reference paragraphs 1 through 25 of this Complaint.

27. Defendants, including Does 1 through 20, have engaged in, and continue to engage in, acts or practices that violate Business and Professions Code Section 17200, such acts or practices include, but are not limited to, the following:

a. Defendants have violated and continue to violate Business and Professions Code § 17500, as alleged above in the First Cause of Action.

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1 b. Defendants have violated and continue to violate California Civil Code
2 § 1770 as follows:
3 i. They misrepresent that CCC has the approval of, is affiliated with,
4 and has authority from the Attorney General, the State of California, and or some other
5 governmental agency to register consumers for the Do Not Call list, all in violation of Civil Code
6 § 1770(a)(2), (a)(3), and (a)(5);
7 ii. They advertise that CCC is able to sell the service of registering
8 consumers for the Do Not Call list when, in fact, CCC, in violation of Civil Code § 1770(a)(9),
9 has no intent to sell such services as advertised;
10 iii. They misrepresent that by paying a fee to CCC, consumers will be
11 registered on the Do Not Call list and will have the right not to be called by solicitors and the right
12 to receive civil penalties from solicitors who telephone them, all in violation of Civil Code §
13 1770(a)(14); and
14 iv. They disseminate an unsolicited prerecorded message by telephone
15 without first (a) informing consumers answering the telephone in an unrecorded, natural voice of
16 the name of the caller and the organization being represented, and either the address or the
17 telephone number of the caller, and (b) obtaining the consent of consumers to listen to the
18 prerecorded message, both in violation of Civil Code § 1770(a)(22)(A).

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment as follows:

21 1. Pursuant to Business and Professions Code §§ 17203 and 17535, that all
22 Defendants, their successors, agents, representatives, employees, and all persons who act in
23 concert with them be permanently enjoined from making any untrue or misleading statements in
24 violation of Business and Professions Codes § 17500, including, but not limited to, the untrue or
25 misleading statements alleged in the First Cause of Action.
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1 2. Pursuant to Business and Professions Code § 17203, that all Defendants, their
2 successors, agents, representatives, employees, and all persons who act in concert with them be
3 permanently enjoined from committing any acts of unfair competition, including, but not limited
4 to, the violations alleged in the Second Cause of Action, including violating Civil Code § 1770.

5 3. Pursuant to Business and Professions Code § 17536, that the Court assess a civil
6 penalty of two thousand five hundred dollars (\$2,500) against each Defendant for each violation
7 of Business and Professions Code § 17500, as proved at trial, in the amount of at least \$500,000.

8 4. Pursuant to Business and Professions Code § 17206, that the Court assess a civil
9 penalty of two thousand five hundred dollars (\$2,500) against each Defendant for each violation
10 of Business and Professions Code § 17200 alleged in the Complaint, as proved at trial, in the
11 amount of at least \$500,000.

12 5. Pursuant to Business and Professions Code § 17206.1, that the Court assess a civil
13 penalty of two thousand five hundred dollars (\$2,500) against each Defendant for each violation
14 of Business and Professions Code § 17200 alleged in the Complaint and committed against a
15 senior citizen, as proved at trial, in the amount of at least \$500,000.

16 6. That Defendants be ordered to give restitution to the consumers who paid
17 for CCC's services.

18 7. That the People recover their costs of suit.

19 8. Such other and further relief that the Court deems just and proper, including
20 imposition of a constructive trust on all money Defendants have received from consumers who
21 responded to Defendants' unlawful solicitations; on all bank, savings, and checking accounts in
22 which any Defendant deposited any of this money; on all profits derived from this money; and on
23 any property purchased or maintained, in whole or in part, by any of this money and Defendants
24 be enjoined from spending, transferring, disbursing, encumbering, or otherwise dissipating any of

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1 this money without first obtaining approval from this Court after a hearing of which Plaintiff is
2 given 15 days' written notice.

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4 DATED: November 20, 2002

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HERSCHEL T. ELKINS,
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ALBERT NORMAN SHELDEN
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9 By _____
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11 Attorneys for Plaintiff,
the People of the State of California
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